IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

CRP.No. 827 of 2007()

AGAINST THE ORDER DATED 30/07/2007 IN EP.136/06 IN OS.287/1998 of MUNSIFF COURT,MUVATTUPUZHA
.....

REVN. PETITIONER: JUDGEMENT DEBTOR

P.N.VIJAYAN, S/O NARAYANAN,
KARIKKUZHIYIL, KUNNACKAL P.O.,
VALAKAM VILLAGE.

BY ADV. SRI.M.K.DILEEPAN
SRI.DEEPAK T.NEDUNGADAN
SMT.P.SUMITHRA

RESPONDENT: DECREE HOLDER

DAMODARAN, S/O P.C.MENON,
RESIDING AT SARAD SADAN,
ARCHANA COLONY, AKATHETHARA,
PALAKKAD.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 827 OF 2007

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Dated this the 17th day of September, 2007.

O R D E R

This revision petition is preferred against the order of the Munsiff, Muvattupuzha in E.P.136/06 in O.S.287/98. The learned Munsiff had stated that the revision petitioner had not tendered evidence and therefore found that the decree holder's evidence is sufficient and held that warrant has to be issued. This Court by the order in CRP 592/07 directed the Court below to grant permission to the revision petitioner as well as the decree holder to adduce evidence in support of their contentions and decide the matter. This Court also directed the parties to appear on 30/7/07. It is submitted by the learned counsel for the revision petitioner that due to the break down of the car the counsel for the judgment debtor was unable to attend the Court in time and the Court on the very same day passed an order directing issuance of warrant. I am surprised that how the Court had disposed of the case course without complying with the principles of natural justice. When a matter is remitted back to the Court with a direction to give evidence and a date of appearance is fixed the Court should have at least given a breathing time and an opportunity to the judgment debtor to produce the documents

mentioned in the earlier revisional order. I am at a loss to find why the learned Munsiff has jumped into a conclusion without adverting to the points mentioned in the revisional order passed by this Court. Therefore, I set aside the order of the learned Munsiff and remit back the matter to the same Court for fresh consideration with a direction to allow the revision petitioner to adduce evidence in support of his contentions. I also make it clear that such evidence need not be let in on the first date of appearance which this Court is going to fix. The revision petitioner is directed to appear before the Court below on 30/10/07 and the Court on that day shall intimate the decree holder about the matter, then fix the date for further evidence and dispose of the matter in accordance with law.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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